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To increase the credit available to small businesses by reducing the regulatory burden on small regulated financial institutions having total assets of less than \$400,000,000.

IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, APRIL 19), 1993

Mr. CHAFEE (for himself, Mr. BUMPERS, Mr. LIEBERMAN, Mr. PRESSLER, Mr. KEMPTHORNE, and Mr. WALLOP) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To increase the credit available to small businesses by reducing the regulatory burden on small regulated financial institutions having total assets of less than \$400,000,000.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business Assistance and Credit Crunch Relief Act
6 of 1993”.

1 (b) TABLE OF CONTENTS.—The following is a table
2 of contents for this Act:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Capital requirement flexibility.
- Sec. 5. New Federal banking regulations subject to regulatory impact analysis.
- Sec. 6. Review of statutory and regulatory provisions affecting small banks.
- Sec. 7. Real estate appraisals.
- Sec. 8. Truth in Lending Act.
- Sec. 9. Community Reinvestment Act.
- Sec. 10. Paperwork reduction study.
- Sec. 11. Sunset provision.

3 **SEC. 2. FINDINGS.**

4 The Congress finds that—

5 (1) credit availability is essential for small busi-
6 nesses to expand, to purchase new equipment, and
7 to hire new workers;

8 (2) the Nation's small business sector is ex-
9 pected to create 70 percent of the new jobs in the
10 United States in 1993;

11 (3) a severe credit crunch is denying small busi-
12 nesses the capital necessary to hire new workers and
13 to grow; and

14 (4) the cumulative burden of unnecessary Fed-
15 eral banking regulations has served as a disincentive
16 for small community banks to lend to small busi-
17 nesses.

18 **SEC. 3. DEFINITIONS.**

19 For the purposes of this Act, the following definitions
20 shall apply:

1 (1) INCORPORATED DEFINITIONS.—The terms
2 “appropriate Federal banking agency”, “bank”, “in-
3 sured depository institution”, and “savings associa-
4 tion” have the same meanings as in section 3 of the
5 Federal Deposit Insurance Act.

6 (2) REGULATORY IMPACT ANALYSIS.—The term
7 “regulatory impact analysis” means a review of the
8 potential costs and benefits to society of a proposed
9 regulation, and in particular, the costs to small
10 banks and their customers.

11 (3) SMALL BANK.—The term “small bank”
12 means a bank or savings association with total as-
13 sets of less than \$400,000,000.

14 **SEC. 4. CAPITAL REQUIREMENT FLEXIBILITY.**

15 Section 38(a)(2) of the Federal Deposit Insurance
16 Act (12 U.S.C. 1831o(a)(2)) is amended to read as
17 follows:

18 “(2) PROMPT CORRECTIVE ACTION REQUIRED;
19 FACTORS TO CONSIDER.—Each appropriate Federal
20 banking agency and the Corporation (acting in the
21 Corporation’s capacity as the insurer of depository
22 institutions under this Act) shall take prompt cor-
23 rective action to resolve the problems of an insured
24 depository institution after taking into consideration,

1 in addition to the other criteria described in this sec-
2 tion—

3 “(A) the management expertise of the di-
4 rectors, officers, and employees of the insured
5 depository institution;

6 “(B) any recent earnings history that sug-
7 gests an improvement in the financial condition
8 of the insured depository institution;

9 “(C) the quality of the assets held by the
10 insured depository institution; and

11 “(D) the potential disruption to the local
12 economy if the insured depository institution is
13 closed or otherwise made subject to sanctions
14 by Federal regulators.”.

15 **SEC. 5. NEW FEDERAL BANKING REGULATIONS SUBJECT**
16 **TO REGULATORY IMPACT ANALYSIS.**

17 (a) REGULATORY IMPACT ANALYSIS.—

18 (1) IN GENERAL.—Notwithstanding any other
19 provision of law, no new regulation shall be promul-
20 gated by an appropriate Federal banking agency
21 until such agency has conducted a regulatory impact
22 analysis and concluded that the benefits of the pro-
23 posed regulation outweigh the costs of implementing
24 and complying with the regulation, including the

1 particular benefits and costs of compliance with the
2 proposed regulation for small banks.

3 (2) DEFINITION.—For purposes of this sub-
4 section, a regulation shall be considered to be “new”
5 if it is promulgated, modified, amended, or reissued
6 on or after the date of enactment of this Act.

7 (b) COSTS.—In reviewing the costs of implementing
8 and complying with a proposed regulation under sub-
9 section (a), the appropriate Federal banking agency shall
10 consider the impact of the proposed regulation on—

11 (1) the national economy (including the poten-
12 tial for job creation);

13 (2) consumers;

14 (3) small businesses;

15 (4) small banks (including administrative and
16 personnel costs);

17 (5) other users of financial services; and

18 (6) new paperwork and documentation require-
19 ments.

20 (c) BENEFITS.—In reviewing the benefits of a pro-
21 posed regulation under subsection (a), the appropriate
22 Federal banking agency shall consider the benefits of the
23 proposed regulation to—

24 (1) the public;

25 (2) taxpayers; and

1 (3) the overall safety and soundness of the Na-
2 tion's banking system.

3 (d) EASING BURDEN ON SMALL BANKS.—In con-
4 ducting the regulatory impact analysis under subsection
5 (a), the appropriate Federal banking agency shall consider
6 including in the proposed regulation a provision that eases
7 the regulatory burden on small banks, including special
8 compliance provisions.

9 (e) ESTIMATE REQUIRED.—The regulatory impact
10 analysis required by subsection (a) shall include an esti-
11 mate of the number of small banks and small businesses
12 that will be affected by the regulation.

13 **SEC. 6. REVIEW OF STATUTORY AND REGULATORY PROVI-**
14 **SIONS AFFECTING SMALL BANKS.**

15 (a) IN GENERAL.—Each appropriate Federal bank-
16 ing agency shall conduct a thorough review and evaluation
17 of all—

18 (1) statutory provisions affecting small banks;

19 and

20 (2) regulatory provisions affecting small banks
21 that have been promulgated by such appropriate
22 Federal banking agency.

23 (b) REVIEW.—The review conducted pursuant to sub-
24 section (a) shall include—

25 (1) an analysis of the purposes of the provision;

1 (2) the effectiveness of the provision in achiev-
2 ing such purposes;

3 (3) whether any other provision provides an al-
4 ternative or duplicative means of achieving those
5 purposes;

6 (4) the cost imposed by compliance with such
7 provisions upon insured depository institutions and
8 consumers; and

9 (5) the relationship between such provision,
10 compliance costs, and the availability of credit in the
11 United States.

12 (c) SUSPENSION.—If an appropriate Federal banking
13 agency makes a determination described in subsection (d),
14 the appropriate Federal banking agency shall—

15 (1) not later than 90 days after the date of en-
16 actment of this Act, submit a written recommenda-
17 tion to the Congress to suspend the applicability of
18 any law that affects small banks (or any portion
19 thereof); and

20 (2) not later than 30 days after the date of en-
21 actment of this Act, suspend the applicability of any
22 Federal regulation or guideline promulgated by such
23 appropriate Federal banking agency that affects
24 small banks (or any portion thereof).

1 (d) DETERMINATION.—For the purpose of subsection
2 (c), a determination is described in this subsection if it
3 is a determination by an appropriate Federal banking
4 agency that—

5 (1) the law, regulation, or guideline has already
6 accomplished its goal and is therefore no longer
7 necessary;

8 (2) the law, regulation, or guideline is not as ef-
9 fective in achieving its intended purpose as other
10 available alternatives that would impose lesser costs
11 on small banks, their customers, or the economy;

12 (3) the cost of compliance with the law, regula-
13 tion, or guideline outweighs the potential benefits
14 sought to be accomplished by the law, regulation, or
15 guideline; or

16 (4) the law, regulation, or guideline has an ad-
17 verse impact on the availability of credit in the Unit-
18 ed States which substantially outweighs the benefits
19 sought to be accomplished by the law, regulation, or
20 guideline.

21 (e) PUBLICATION AND EFFECTIVE DATE.—Any sus-
22 pension of the applicability of any Federal regulation or
23 guideline pursuant to subsection (c)(2) shall be published
24 in the Federal Register, and shall become effective 30 days
25 after the date of such publication, unless the appropriate

1 Federal banking agency, for good cause, determines that
2 a shorter period is necessary and in the public interest.

3 (f) CONSULTATION AND NOTIFICATION.—

4 (1) CONSULTATION.—In making a determina-
5 tion under subsection (d), the appropriate Federal
6 banking agency shall consult with the Secretary of
7 the Treasury, the Chairperson of the Federal De-
8 posit Insurance Corporation, the Chairman of the
9 Board of Governors of the Federal Reserve System,
10 the Comptroller of the Currency, and the Director of
11 the Office of Thrift Supervision.

12 (2) NOTIFICATION.—The appropriate Federal
13 banking agency shall notify the Committee on Bank-
14 ing, Housing, and Urban Affairs of the Senate and
15 the Committee on Banking, Finance and Urban Af-
16 fairs of the House of Representatives prior to sus-
17 pending the applicability of a regulation or guideline
18 under subsection (c)(2).

19 (g) RESTRICTION.—Nothing in this section author-
20 izes an appropriate Federal banking agency to recommend
21 the suspension of any law, or to suspend any regulation
22 or guideline—

23 (1) that is necessary for the safe and sound
24 operation of insured depository institutions; or

25 (2) that—

1 (A) prohibits discrimination in the provi-
2 sion of financial services based on race, sex, na-
3 tional origin, marital status, or age;

4 (B) relates directly to the conduct of mon-
5 etary policy; or

6 (C) pertains to an enforcement proceeding
7 or supervisory action with respect to a particu-
8 lar institution or party.

9 **SEC. 7. REAL ESTATE APPRAISALS.**

10 Section 1112(b) of the Financial Institutions Reform,
11 Recovery, and Enforcement Act of 1989 (12 U.S.C.
12 3341(b)) is amended by inserting “, which shall be not
13 less than \$250,000,” after “establish a threshold level”.

14 **SEC. 8. TRUTH IN LENDING ACT.**

15 Section 104 of the Truth in Lending Act (15 U.S.C.
16 1603) is amended by adding at the end the following new
17 paragraph:

18 “(7) Credit transactions involving a bank or
19 savings association with total assets of less than
20 \$400,000,000, and a consumer who had individual
21 income of more than \$200,000 in each of the 2 most
22 recent years, or who, at the time of the transaction,
23 has an individual net worth of more than
24 \$1,000,000.”.

1 **SEC. 9. COMMUNITY REINVESTMENT ACT.**

2 (a) PAPERWORK REDUCTION.—Section 804(a) of the
3 Community Reinvestment Act of 1977 (12 U.S.C.
4 2903(a)) is amended—

5 (1) in paragraph (1), by striking “and” at the
6 end;

7 (2) in paragraph (2), by striking the period at
8 the end and inserting “; and”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(3) minimize the regulatory paperwork burden
12 and costs to small banks associated with compliance
13 with this title.”.

14 (b) APPLICATIONS.—Section 804(a) of the Commu-
15 nity Reinvestment Act of 1977 (12 U.S.C. 2903(a)) is
16 amended by adding at the end the following: “The appro-
17 priate Federal financial supervisory agency shall not deny
18 an application for a deposit facility by a regulated finan-
19 cial institution having total assets of less than
20 \$400,000,000 on the basis of such institution’s compliance
21 with this Act if the institution received a rating on its last
22 evaluation under this section of ‘Outstanding’ in its record
23 of meeting community credit needs, as provided in section
24 807(b).”.

25 (c) PAPERWORK REDUCTION FOR SMALL BANKS.—
26 The Community Reinvestment Act of 1977 (12 U.S.C.

1 2901 et seq.) is amended by adding at the end the follow-
2 ing new section:

3 **“SEC. 809. SMALL BANKS.**

4 “(a) ‘OUTSTANDING’ RATING.—

5 “(1) PAPERWORK REDUCTION.—Except as pro-
6 vided in paragraph (2), a regulated financial institu-
7 tion that—

8 “(A) receives a rating under section 804 of
9 ‘Outstanding record of meeting community
10 credit needs’, as provided in section 807(b); and

11 “(B) has total assets of less than
12 \$400,000,000;

13 shall be exempt from any documentation require-
14 ments of this title.

15 “(2) NEW DOCUMENTATION REGULATIONS.—

16 Not later than 30 days after the date of enactment
17 of this section, the appropriate Federal financial su-
18 pervisory agency shall promulgate documentation re-
19 quirements for the regulated financial institutions
20 described in paragraph (1). Such regulations shall
21 substantially reduce or eliminate the paperwork re-
22 quirements imposed on such regulated financial in-
23 stitutions.

24 “(3) DISCLOSURE OF EVALUATION CRITERIA.—

25 Not later than 30 days after the date of enactment

1 of this section, the appropriate Federal financial su-
 2 pervisory agency shall disclose to each regulated fi-
 3 nancial institution, in detail, the specific criteria an
 4 insured financial institution must satisfy in order to
 5 secure a rating of ‘Outstanding’ on an evaluation
 6 under section 807(b).

7 “(b) ‘SUBSTANTIAL NONCOMPLIANCE’ RATING.—A
 8 regulated financial institution that receives a rating under
 9 section 804 of ‘Substantial noncompliance in meeting com-
 10 munity credit needs’, as provided in section 807(b), for
 11 2 or more consecutive years, and has total assets of less
 12 than \$400,000,000 shall be—

13 “(1) subject to a civil penalty assessed by the
 14 appropriate Federal financial supervisory agency in
 15 an amount not to exceed \$20,000; and

16 “(2) required to enter into a written agreement
 17 with the appropriate Federal financial supervisory
 18 agency to improve the institution’s ability to ascer-
 19 tain and to help meet the credit needs of its local
 20 community.”.

21 **SEC. 10. PAPERWORK REDUCTION STUDY.**

22 Not later than 18 months after the date of enactment
 23 of this Act, each appropriate Federal banking agency, in
 24 consultation with insured depository institutions and other
 25 interested parties, shall—

1 (1) review the extent to which this Act has—

2 (A) reduced unnecessary internal written
3 policies; and

4 (B) eliminated such policies, where appro-
5 priate, while maintaining the applicable safety
6 and soundness requirements; and

7 (2) issue a recommendation as to whether the
8 provisions of this Act should be extended beyond the
9 sunset date established in section 11.

10 **SEC. 11. SUNSET PROVISION.**

11 The provisions of this Act and the amendments made
12 by this Act shall remain in effect for a period of 3 years
13 beginning on the date of enactment of this Act.

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